

By: Senator(s) Nunnelee

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2511

1 AN ACT TO AMEND SECTION 41-7-191, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT AN INCREASE OF LESS THAN TEN BEDS OR 10% OF THE  
3 BED CAPACITY OF A NURSING FACILITY OVER A PERIOD OF TWO YEARS DOES  
4 NOT REQUIRE THE ISSUANCE OF A CERTIFICATE OF NEED BY THE STATE  
5 DEPARTMENT OF HEALTH; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 41-7-191, Mississippi Code of 1972, is  
8 amended as follows:

9 41-7-191. (1) No person shall engage in any of the  
10 following activities without obtaining the required certificate of  
11 need:

12 (a) The construction, development or other  
13 establishment of a new health care facility;

14 (b) The relocation of a health care facility or portion  
15 thereof, or major medical equipment, unless such relocation of a  
16 health care facility or portion thereof, or major medical  
17 equipment, which does not involve a capital expenditure by or on  
18 behalf of a health care facility, is within five thousand two  
19 hundred eighty (5,280) feet from the main entrance of the health  
20 care facility;

21 (c) A change over a period of two (2) years' time in  
22 existing bed complement through the addition of more than ten (10)  
23 beds or more than ten percent (10%) of the total bed capacity of a  
24 designated licensed category or subcategory of any health care  
25 facility, whichever is less, through the addition or conversion of  
26 any beds or the alteration, modernizing or refurbishing of any  
27 unit or department in which the beds may be located; however, if a  
28 health care facility has voluntarily delicensed some of its

29 existing bed complement, it may later relicense some or all of its  
30 delicensed beds without the necessity of having to acquire a  
31 certificate of need. The State Department of Health shall  
32 maintain a record of the delicensing health care facility and its  
33 voluntarily delicensed beds and continue counting those beds as  
34 part of the state's total bed count for health care planning  
35 purposes. If a health care facility that has voluntarily  
36 delicensed some of its beds later desires to relicense some or all  
37 of its voluntarily delicensed beds, it shall notify the State  
38 Department of Health of its intent to increase the number of its  
39 licensed beds. The State Department of Health shall survey the  
40 health care facility within thirty (30) days of that notice and,  
41 if appropriate, issue the health care facility a new license  
42 reflecting the new contingent of beds. However, in no event may a  
43 health care facility that has voluntarily delicensed some of its  
44 beds be reissued a license to operate beds in excess of its bed  
45 count before the voluntary delicensure of some of its beds without  
46 seeking certificate of need approval;

47 (d) Offering of the following health services if those  
48 services have not been provided on a regular basis by the proposed  
49 provider of such services within the period of twelve (12) months  
50 prior to the time such services would be offered:

- 51 (i) Open heart surgery services;
- 52 (ii) Cardiac catheterization services;
- 53 (iii) Comprehensive inpatient rehabilitation  
54 services;
- 55 (iv) Licensed psychiatric services;
- 56 (v) Licensed chemical dependency services;
- 57 (vi) Radiation therapy services;
- 58 (vii) Diagnostic imaging services of an invasive  
59 nature, i.e. invasive digital angiography;
- 60 (viii) Nursing home care as defined in  
61 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);

62 (ix) Home health services;  
63 (x) Swing-bed services;  
64 (xi) Ambulatory surgical services;  
65 (xii) Magnetic resonance imaging services;  
66 (xiii) Extracorporeal shock wave lithotripsy  
67 services;  
68 (xiv) Long-term care hospital services;  
69 (xv) Positron Emission Tomography (PET) services;  
70 (e) The relocation of one or more health services from  
71 one physical facility or site to another physical facility or  
72 site, unless such relocation, which does not involve a capital  
73 expenditure by or on behalf of a health care facility, (i) is to a  
74 physical facility or site within one thousand three hundred twenty  
75 (1,320) feet from the main entrance of the health care facility  
76 where the health care service is located, or (ii) is the result of  
77 an order of a court of appropriate jurisdiction or a result of  
78 pending litigation in such court, or by order of the State  
79 Department of Health, or by order of any other agency or legal  
80 entity of the state, the federal government, or any political  
81 subdivision of either, whose order is also approved by the State  
82 Department of Health;  
83 (f) The acquisition or otherwise control of any major  
84 medical equipment for the provision of medical services; provided,  
85 however, (i) the acquisition of any major medical equipment used  
86 only for research purposes, and (ii) the acquisition of major  
87 medical equipment to replace medical equipment for which a  
88 facility is already providing medical services and for which the  
89 State Department of Health has been notified before the date of  
90 such acquisition shall be exempt from this paragraph; an  
91 acquisition for less than fair market value must be reviewed, if  
92 the acquisition at fair market value would be subject to review;  
93 (g) Changes of ownership of existing health care  
94 facilities in which a notice of intent is not filed with the State

95 Department of Health at least thirty (30) days prior to the date  
96 such change of ownership occurs, or a change in services or bed  
97 capacity as prescribed in paragraph (c) or (d) of this subsection  
98 as a result of the change of ownership; an acquisition for less  
99 than fair market value must be reviewed, if the acquisition at  
100 fair market value would be subject to review;

101 (h) The change of ownership of any health care facility  
102 defined in subparagraphs (iv), (vi) and (viii) of Section  
103 41-7-173(h), in which a notice of intent as described in paragraph  
104 (g) has not been filed and if the Executive Director, Division of  
105 Medicaid, Office of the Governor, has not certified in writing  
106 that there will be no increase in allowable costs to Medicaid from  
107 revaluation of the assets or from increased interest and  
108 depreciation as a result of the proposed change of ownership;

109 (i) Any activity described in paragraphs (a) through  
110 (h) if undertaken by any person if that same activity would  
111 require certificate of need approval if undertaken by a health  
112 care facility;

113 (j) Any capital expenditure or deferred capital  
114 expenditure by or on behalf of a health care facility not covered  
115 by paragraphs (a) through (h);

116 (k) The contracting of a health care facility as  
117 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)  
118 to establish a home office, subunit, or branch office in the space  
119 operated as a health care facility through a formal arrangement  
120 with an existing health care facility as defined in subparagraph  
121 (ix) of Section 41-7-173(h).

122 (2) The State Department of Health shall not grant approval  
123 for or issue a certificate of need to any person proposing the new  
124 construction of, addition to, or expansion of any health care  
125 facility defined in subparagraphs (iv) (skilled nursing facility)  
126 and (vi) (intermediate care facility) of Section 41-7-173(h) or

127 the conversion of vacant hospital beds to provide skilled or  
128 intermediate nursing home care, except as hereinafter authorized:

129 (a) The department may issue a certificate of need to  
130 any person proposing the new construction of any health care  
131 facility defined in subparagraphs (iv) and (vi) of Section  
132 41-7-173(h) as part of a life care retirement facility, in any  
133 county bordering on the Gulf of Mexico in which is located a  
134 National Aeronautics and Space Administration facility, not to  
135 exceed forty (40) beds. From and after July 1, 1999, there shall  
136 be no prohibition or restrictions on participation in the Medicaid  
137 program (Section 43-13-101 et seq.) for the beds in the health  
138 care facility that were authorized under this paragraph (a).

139 (b) The department may issue certificates of need in  
140 Harrison County to provide skilled nursing home care for  
141 Alzheimer's disease patients and other patients, not to exceed one  
142 hundred fifty (150) beds. From and after July 1, 1999, there  
143 shall be no prohibition or restrictions on participation in the  
144 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
145 nursing facilities that were authorized under this paragraph (b).

146 (c) The department may issue a certificate of need for  
147 the addition to or expansion of any skilled nursing facility that  
148 is part of an existing continuing care retirement community  
149 located in Madison County, provided that the recipient of the  
150 certificate of need agrees in writing that the skilled nursing  
151 facility will not at any time participate in the Medicaid program  
152 (Section 43-13-101 et seq.) or admit or keep any patients in the  
153 skilled nursing facility who are participating in the Medicaid  
154 program. This written agreement by the recipient of the  
155 certificate of need shall be fully binding on any subsequent owner  
156 of the skilled nursing facility, if the ownership of the facility  
157 is transferred at any time after the issuance of the certificate  
158 of need. Agreement that the skilled nursing facility will not  
159 participate in the Medicaid program shall be a condition of the

160 issuance of a certificate of need to any person under this  
161 paragraph (c), and if such skilled nursing facility at any time  
162 after the issuance of the certificate of need, regardless of the  
163 ownership of the facility, participates in the Medicaid program or  
164 admits or keeps any patients in the facility who are participating  
165 in the Medicaid program, the State Department of Health shall  
166 revoke the certificate of need, if it is still outstanding, and  
167 shall deny or revoke the license of the skilled nursing facility,  
168 at the time that the department determines, after a hearing  
169 complying with due process, that the facility has failed to comply  
170 with any of the conditions upon which the certificate of need was  
171 issued, as provided in this paragraph and in the written agreement  
172 by the recipient of the certificate of need. The total number of  
173 beds that may be authorized under the authority of this paragraph  
174 (c) shall not exceed sixty (60) beds.

175 (d) The State Department of Health may issue a  
176 certificate of need to any hospital located in DeSoto County for  
177 the new construction of a skilled nursing facility, not to exceed  
178 one hundred twenty (120) beds, in DeSoto County. From and after  
179 July 1, 1999, there shall be no prohibition or restrictions on  
180 participation in the Medicaid program (Section 43-13-101 et seq.)  
181 for the beds in the nursing facility that were authorized under  
182 this paragraph (d).

183 (e) The State Department of Health may issue a  
184 certificate of need for the construction of a nursing facility or  
185 the conversion of beds to nursing facility beds at a personal care  
186 facility for the elderly in Lowndes County that is owned and  
187 operated by a Mississippi nonprofit corporation, not to exceed  
188 sixty (60) beds. From and after July 1, 1999, there shall be no  
189 prohibition or restrictions on participation in the Medicaid  
190 program (Section 43-13-101 et seq.) for the beds in the nursing  
191 facility that were authorized under this paragraph (e).

192           (f) The State Department of Health may issue a  
193 certificate of need for conversion of a county hospital facility  
194 in Itawamba County to a nursing facility, not to exceed sixty (60)  
195 beds, including any necessary construction, renovation or  
196 expansion. From and after July 1, 1999, there shall be no  
197 prohibition or restrictions on participation in the Medicaid  
198 program (Section 43-13-101 et seq.) for the beds in the nursing  
199 facility that were authorized under this paragraph (f).

200           (g) The State Department of Health may issue a  
201 certificate of need for the construction or expansion of nursing  
202 facility beds or the conversion of other beds to nursing facility  
203 beds in either Hinds, Madison or Rankin County, not to exceed  
204 sixty (60) beds. From and after July 1, 1999, there shall be no  
205 prohibition or restrictions on participation in the Medicaid  
206 program (Section 43-13-101 et seq.) for the beds in the nursing  
207 facility that were authorized under this paragraph (g).

208           (h) The State Department of Health may issue a  
209 certificate of need for the construction or expansion of nursing  
210 facility beds or the conversion of other beds to nursing facility  
211 beds in either Hancock, Harrison or Jackson County, not to exceed  
212 sixty (60) beds. From and after July 1, 1999, there shall be no  
213 prohibition or restrictions on participation in the Medicaid  
214 program (Section 43-13-101 et seq.) for the beds in the facility  
215 that were authorized under this paragraph (h).

216           (i) The department may issue a certificate of need for  
217 the new construction of a skilled nursing facility in Leake  
218 County, provided that the recipient of the certificate of need  
219 agrees in writing that the skilled nursing facility will not at  
220 any time participate in the Medicaid program (Section 43-13-101 et  
221 seq.) or admit or keep any patients in the skilled nursing  
222 facility who are participating in the Medicaid program. This  
223 written agreement by the recipient of the certificate of need  
224 shall be fully binding on any subsequent owner of the skilled

225 nursing facility, if the ownership of the facility is transferred  
226 at any time after the issuance of the certificate of need.  
227 Agreement that the skilled nursing facility will not participate  
228 in the Medicaid program shall be a condition of the issuance of a  
229 certificate of need to any person under this paragraph (i), and if  
230 such skilled nursing facility at any time after the issuance of  
231 the certificate of need, regardless of the ownership of the  
232 facility, participates in the Medicaid program or admits or keeps  
233 any patients in the facility who are participating in the Medicaid  
234 program, the State Department of Health shall revoke the  
235 certificate of need, if it is still outstanding, and shall deny or  
236 revoke the license of the skilled nursing facility, at the time  
237 that the department determines, after a hearing complying with due  
238 process, that the facility has failed to comply with any of the  
239 conditions upon which the certificate of need was issued, as  
240 provided in this paragraph and in the written agreement by the  
241 recipient of the certificate of need. The provision of Section  
242 43-7-193(1) regarding substantial compliance of the projection of  
243 need as reported in the current State Health Plan is waived for  
244 the purposes of this paragraph. The total number of nursing  
245 facility beds that may be authorized by any certificate of need  
246 issued under this paragraph (i) shall not exceed sixty (60) beds.  
247 If the skilled nursing facility authorized by the certificate of  
248 need issued under this paragraph is not constructed and fully  
249 operational within eighteen (18) months after July 1, 1994, the  
250 State Department of Health, after a hearing complying with due  
251 process, shall revoke the certificate of need, if it is still  
252 outstanding, and shall not issue a license for the skilled nursing  
253 facility at any time after the expiration of the eighteen-month  
254 period.

255 (j) The department may issue certificates of need to  
256 allow any existing freestanding long-term care facility in  
257 Tishomingo County and Hancock County that on July 1, 1995, is



258 licensed with fewer than sixty (60) beds. For the purposes of  
259 this paragraph (j), the provision of Section 41-7-193(1) requiring  
260 substantial compliance with the projection of need as reported in  
261 the current State Health Plan is waived. From and after July 1,  
262 1999, there shall be no prohibition or restrictions on  
263 participation in the Medicaid program (Section 43-13-101 et seq.)  
264 for the beds in the long-term care facilities that were authorized  
265 under this paragraph (j).

266 (k) The department may issue a certificate of need for  
267 the construction of a nursing facility at a continuing care  
268 retirement community in Lowndes County. The total number of beds  
269 that may be authorized under the authority of this paragraph (k)  
270 shall not exceed sixty (60) beds. From and after July 1, 2001,  
271 the prohibition on the facility participating in the Medicaid  
272 program (Section 43-13-101 et seq.) that was a condition of  
273 issuance of the certificate of need under this paragraph (k) shall  
274 be revised as follows: The nursing facility may participate in  
275 the Medicaid program from and after July 1, 2001, if the owner of  
276 the facility on July 1, 2001, agrees in writing that no more than  
277 thirty (30) of the beds at the facility will be certified for  
278 participation in the Medicaid program, and that no claim will be  
279 submitted for Medicaid reimbursement for more than thirty (30)  
280 patients in the facility in any month or for any patient in the  
281 facility who is in a bed that is not Medicaid-certified. This  
282 written agreement by the owner of the facility shall be a  
283 condition of licensure of the facility, and the agreement shall be  
284 fully binding on any subsequent owner of the facility if the  
285 ownership of the facility is transferred at any time after July 1,  
286 2001. After this written agreement is executed, the Division of  
287 Medicaid and the State Department of Health shall not certify more  
288 than thirty (30) of the beds in the facility for participation in  
289 the Medicaid program. If the facility violates the terms of the  
290 written agreement by admitting or keeping in the facility on a

291 regular or continuing basis more than thirty (30) patients who are  
292 participating in the Medicaid program, the State Department of  
293 Health shall revoke the license of the facility, at the time that  
294 the department determines, after a hearing complying with due  
295 process, that the facility has violated the written agreement.

296 (1) Provided that funds are specifically appropriated  
297 therefor by the Legislature, the department may issue a  
298 certificate of need to a rehabilitation hospital in Hinds County  
299 for the construction of a sixty-bed long-term care nursing  
300 facility dedicated to the care and treatment of persons with  
301 severe disabilities including persons with spinal cord and  
302 closed-head injuries and ventilator-dependent patients. The  
303 provision of Section 41-7-193(1) regarding substantial compliance  
304 with projection of need as reported in the current State Health  
305 Plan is hereby waived for the purpose of this paragraph.

306 (m) The State Department of Health may issue a  
307 certificate of need to a county-owned hospital in the Second  
308 Judicial District of Panola County for the conversion of not more  
309 than seventy-two (72) hospital beds to nursing facility beds,  
310 provided that the recipient of the certificate of need agrees in  
311 writing that none of the beds at the nursing facility will be  
312 certified for participation in the Medicaid program (Section  
313 43-13-101 et seq.), and that no claim will be submitted for  
314 Medicaid reimbursement in the nursing facility in any day or for  
315 any patient in the nursing facility. This written agreement by  
316 the recipient of the certificate of need shall be a condition of  
317 the issuance of the certificate of need under this paragraph, and  
318 the agreement shall be fully binding on any subsequent owner of  
319 the nursing facility if the ownership of the nursing facility is  
320 transferred at any time after the issuance of the certificate of  
321 need. After this written agreement is executed, the Division of  
322 Medicaid and the State Department of Health shall not certify any  
323 of the beds in the nursing facility for participation in the

324 Medicaid program. If the nursing facility violates the terms of  
325 the written agreement by admitting or keeping in the nursing  
326 facility on a regular or continuing basis any patients who are  
327 participating in the Medicaid program, the State Department of  
328 Health shall revoke the license of the nursing facility, at the  
329 time that the department determines, after a hearing complying  
330 with due process, that the nursing facility has violated the  
331 condition upon which the certificate of need was issued, as  
332 provided in this paragraph and in the written agreement. If the  
333 certificate of need authorized under this paragraph is not issued  
334 within twelve (12) months after July 1, 2001, the department shall  
335 deny the application for the certificate of need and shall not  
336 issue the certificate of need at any time after the twelve-month  
337 period, unless the issuance is contested. If the certificate of  
338 need is issued and substantial construction of the nursing  
339 facility beds has not commenced within eighteen (18) months after  
340 July 1, 2001, the State Department of Health, after a hearing  
341 complying with due process, shall revoke the certificate of need  
342 if it is still outstanding, and the department shall not issue a  
343 license for the nursing facility at any time after the  
344 eighteen-month period. Provided, however, that if the issuance of  
345 the certificate of need is contested, the department shall require  
346 substantial construction of the nursing facility beds within six  
347 (6) months after final adjudication on the issuance of the  
348 certificate of need.

349 (n) The department may issue a certificate of need for  
350 the new construction, addition or conversion of skilled nursing  
351 facility beds in Madison County, provided that the recipient of  
352 the certificate of need agrees in writing that the skilled nursing  
353 facility will not at any time participate in the Medicaid program  
354 (Section 43-13-101 et seq.) or admit or keep any patients in the  
355 skilled nursing facility who are participating in the Medicaid  
356 program. This written agreement by the recipient of the

357 certificate of need shall be fully binding on any subsequent owner  
358 of the skilled nursing facility, if the ownership of the facility  
359 is transferred at any time after the issuance of the certificate  
360 of need. Agreement that the skilled nursing facility will not  
361 participate in the Medicaid program shall be a condition of the  
362 issuance of a certificate of need to any person under this  
363 paragraph (n), and if such skilled nursing facility at any time  
364 after the issuance of the certificate of need, regardless of the  
365 ownership of the facility, participates in the Medicaid program or  
366 admits or keeps any patients in the facility who are participating  
367 in the Medicaid program, the State Department of Health shall  
368 revoke the certificate of need, if it is still outstanding, and  
369 shall deny or revoke the license of the skilled nursing facility,  
370 at the time that the department determines, after a hearing  
371 complying with due process, that the facility has failed to comply  
372 with any of the conditions upon which the certificate of need was  
373 issued, as provided in this paragraph and in the written agreement  
374 by the recipient of the certificate of need. The total number of  
375 nursing facility beds that may be authorized by any certificate of  
376 need issued under this paragraph (n) shall not exceed sixty (60)  
377 beds. If the certificate of need authorized under this paragraph  
378 is not issued within twelve (12) months after July 1, 1998, the  
379 department shall deny the application for the certificate of need  
380 and shall not issue the certificate of need at any time after the  
381 twelve-month period, unless the issuance is contested. If the  
382 certificate of need is issued and substantial construction of the  
383 nursing facility beds has not commenced within eighteen (18)  
384 months after the effective date of July 1, 1998, the State  
385 Department of Health, after a hearing complying with due process,  
386 shall revoke the certificate of need if it is still outstanding,  
387 and the department shall not issue a license for the nursing  
388 facility at any time after the eighteen-month period. Provided,  
389 however, that if the issuance of the certificate of need is

390 contested, the department shall require substantial construction  
391 of the nursing facility beds within six (6) months after final  
392 adjudication on the issuance of the certificate of need.

393           (o) The department may issue a certificate of need for  
394 the new construction, addition or conversion of skilled nursing  
395 facility beds in Leake County, provided that the recipient of the  
396 certificate of need agrees in writing that the skilled nursing  
397 facility will not at any time participate in the Medicaid program  
398 (Section 43-13-101 et seq.) or admit or keep any patients in the  
399 skilled nursing facility who are participating in the Medicaid  
400 program. This written agreement by the recipient of the  
401 certificate of need shall be fully binding on any subsequent owner  
402 of the skilled nursing facility, if the ownership of the facility  
403 is transferred at any time after the issuance of the certificate  
404 of need. Agreement that the skilled nursing facility will not  
405 participate in the Medicaid program shall be a condition of the  
406 issuance of a certificate of need to any person under this  
407 paragraph (o), and if such skilled nursing facility at any time  
408 after the issuance of the certificate of need, regardless of the  
409 ownership of the facility, participates in the Medicaid program or  
410 admits or keeps any patients in the facility who are participating  
411 in the Medicaid program, the State Department of Health shall  
412 revoke the certificate of need, if it is still outstanding, and  
413 shall deny or revoke the license of the skilled nursing facility,  
414 at the time that the department determines, after a hearing  
415 complying with due process, that the facility has failed to comply  
416 with any of the conditions upon which the certificate of need was  
417 issued, as provided in this paragraph and in the written agreement  
418 by the recipient of the certificate of need. The total number of  
419 nursing facility beds that may be authorized by any certificate of  
420 need issued under this paragraph (o) shall not exceed sixty (60)  
421 beds. If the certificate of need authorized under this paragraph  
422 is not issued within twelve (12) months after July 1, 2001, the

423 department shall deny the application for the certificate of need  
424 and shall not issue the certificate of need at any time after the  
425 twelve-month period, unless the issuance is contested. If the  
426 certificate of need is issued and substantial construction of the  
427 nursing facility beds has not commenced within eighteen (18)  
428 months after the effective date of July 1, 2001, the State  
429 Department of Health, after a hearing complying with due process,  
430 shall revoke the certificate of need if it is still outstanding,  
431 and the department shall not issue a license for the nursing  
432 facility at any time after the eighteen-month period. Provided,  
433 however, that if the issuance of the certificate of need is  
434 contested, the department shall require substantial construction  
435 of the nursing facility beds within six (6) months after final  
436 adjudication on the issuance of the certificate of need.

437           (p) The department may issue a certificate of need for  
438 the construction of a municipally-owned nursing facility within  
439 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
440 beds, provided that the recipient of the certificate of need  
441 agrees in writing that the skilled nursing facility will not at  
442 any time participate in the Medicaid program (Section 43-13-101 et  
443 seq.) or admit or keep any patients in the skilled nursing  
444 facility who are participating in the Medicaid program. This  
445 written agreement by the recipient of the certificate of need  
446 shall be fully binding on any subsequent owner of the skilled  
447 nursing facility, if the ownership of the facility is transferred  
448 at any time after the issuance of the certificate of need.  
449 Agreement that the skilled nursing facility will not participate  
450 in the Medicaid program shall be a condition of the issuance of a  
451 certificate of need to any person under this paragraph (p), and if  
452 such skilled nursing facility at any time after the issuance of  
453 the certificate of need, regardless of the ownership of the  
454 facility, participates in the Medicaid program or admits or keeps  
455 any patients in the facility who are participating in the Medicaid

456 program, the State Department of Health shall revoke the  
457 certificate of need, if it is still outstanding, and shall deny or  
458 revoke the license of the skilled nursing facility, at the time  
459 that the department determines, after a hearing complying with due  
460 process, that the facility has failed to comply with any of the  
461 conditions upon which the certificate of need was issued, as  
462 provided in this paragraph and in the written agreement by the  
463 recipient of the certificate of need. The provision of Section  
464 43-7-193(1) regarding substantial compliance of the projection of  
465 need as reported in the current State Health Plan is waived for  
466 the purposes of this paragraph. If the certificate of need  
467 authorized under this paragraph is not issued within twelve (12)  
468 months after July 1, 1998, the department shall deny the  
469 application for the certificate of need and shall not issue the  
470 certificate of need at any time after the twelve-month period,  
471 unless the issuance is contested. If the certificate of need is  
472 issued and substantial construction of the nursing facility beds  
473 has not commenced within eighteen (18) months after July 1, 1998,  
474 the State Department of Health, after a hearing complying with due  
475 process, shall revoke the certificate of need if it is still  
476 outstanding, and the department shall not issue a license for the  
477 nursing facility at any time after the eighteen-month period.  
478 Provided, however, that if the issuance of the certificate of need  
479 is contested, the department shall require substantial  
480 construction of the nursing facility beds within six (6) months  
481 after final adjudication on the issuance of the certificate of  
482 need.

483 (q) (i) Beginning on July 1, 1999, the State  
484 Department of Health shall issue certificates of need during each  
485 of the next four (4) fiscal years for the construction or  
486 expansion of nursing facility beds or the conversion of other beds  
487 to nursing facility beds in each county in the state having a need  
488 for fifty (50) or more additional nursing facility beds, as shown

489 in the fiscal year 1999 State Health Plan, in the manner provided  
490 in this paragraph (q). The total number of nursing facility beds  
491 that may be authorized by any certificate of need authorized under  
492 this paragraph (q) shall not exceed sixty (60) beds.

493 (ii) Subject to the provisions of subparagraph  
494 (v), during each of the next four (4) fiscal years, the department  
495 shall issue six (6) certificates of need for new nursing facility  
496 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
497 (1) certificate of need shall be issued for new nursing facility  
498 beds in the county in each of the four (4) Long-Term Care Planning  
499 Districts designated in the fiscal year 1999 State Health Plan  
500 that has the highest need in the district for those beds; and two  
501 (2) certificates of need shall be issued for new nursing facility  
502 beds in the two (2) counties from the state at large that have the  
503 highest need in the state for those beds, when considering the  
504 need on a statewide basis and without regard to the Long-Term Care  
505 Planning Districts in which the counties are located. During  
506 fiscal year 2003, one (1) certificate of need shall be issued for  
507 new nursing facility beds in any county having a need for fifty  
508 (50) or more additional nursing facility beds, as shown in the  
509 fiscal year 1999 State Health Plan, that has not received a  
510 certificate of need under this paragraph (q) during the three (3)  
511 previous fiscal years. During fiscal year 2000, in addition to  
512 the six (6) certificates of need authorized in this subparagraph,  
513 the department also shall issue a certificate of need for new  
514 nursing facility beds in Amite County and a certificate of need  
515 for new nursing facility beds in Carroll County.

516 (iii) Subject to the provisions of subparagraph  
517 (v), the certificate of need issued under subparagraph (ii) for  
518 nursing facility beds in each Long-Term Care Planning District  
519 during each fiscal year shall first be available for nursing  
520 facility beds in the county in the district having the highest  
521 need for those beds, as shown in the fiscal year 1999 State Health



522 Plan. If there are no applications for a certificate of need for  
523 nursing facility beds in the county having the highest need for  
524 those beds by the date specified by the department, then the  
525 certificate of need shall be available for nursing facility beds  
526 in other counties in the district in descending order of the need  
527 for those beds, from the county with the second highest need to  
528 the county with the lowest need, until an application is received  
529 for nursing facility beds in an eligible county in the district.

530 (iv) Subject to the provisions of subparagraph  
531 (v), the certificate of need issued under subparagraph (ii) for  
532 nursing facility beds in the two (2) counties from the state at  
533 large during each fiscal year shall first be available for nursing  
534 facility beds in the two (2) counties that have the highest need  
535 in the state for those beds, as shown in the fiscal year 1999  
536 State Health Plan, when considering the need on a statewide basis  
537 and without regard to the Long-Term Care Planning Districts in  
538 which the counties are located. If there are no applications for  
539 a certificate of need for nursing facility beds in either of the  
540 two (2) counties having the highest need for those beds on a  
541 statewide basis by the date specified by the department, then the  
542 certificate of need shall be available for nursing facility beds  
543 in other counties from the state at large in descending order of  
544 the need for those beds on a statewide basis, from the county with  
545 the second highest need to the county with the lowest need, until  
546 an application is received for nursing facility beds in an  
547 eligible county from the state at large.

548 (v) If a certificate of need is authorized to be  
549 issued under this paragraph (q) for nursing facility beds in a  
550 county on the basis of the need in the Long-Term Care Planning  
551 District during any fiscal year of the four-year period, a  
552 certificate of need shall not also be available under this  
553 paragraph (q) for additional nursing facility beds in that county  
554 on the basis of the need in the state at large, and that county

555 shall be excluded in determining which counties have the highest  
556 need for nursing facility beds in the state at large for that  
557 fiscal year. After a certificate of need has been issued under  
558 this paragraph (q) for nursing facility beds in a county during  
559 any fiscal year of the four-year period, a certificate of need  
560 shall not be available again under this paragraph (q) for  
561 additional nursing facility beds in that county during the  
562 four-year period, and that county shall be excluded in determining  
563 which counties have the highest need for nursing facility beds in  
564 succeeding fiscal years.

565 (vi) If more than one (1) application is made for  
566 a certificate of need for nursing home facility beds available  
567 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
568 County, and one (1) of the applicants is a county-owned hospital  
569 located in the county where the nursing facility beds are  
570 available, the department shall give priority to the county-owned  
571 hospital in granting the certificate of need if the following  
572 conditions are met:

573 1. The county-owned hospital fully meets all  
574 applicable criteria and standards required to obtain a certificate  
575 of need for the nursing facility beds; and

576 2. The county-owned hospital's qualifications  
577 for the certificate of need, as shown in its application and as  
578 determined by the department, are at least equal to the  
579 qualifications of the other applicants for the certificate of  
580 need.

581 (r) (i) Beginning on July 1, 1999, the State  
582 Department of Health shall issue certificates of need during each  
583 of the next two (2) fiscal years for the construction or expansion  
584 of nursing facility beds or the conversion of other beds to  
585 nursing facility beds in each of the four (4) Long-Term Care  
586 Planning Districts designated in the fiscal year 1999 State Health

587 Plan, to provide care exclusively to patients with Alzheimer's  
588 disease.

589 (ii) Not more than twenty (20) beds may be  
590 authorized by any certificate of need issued under this paragraph  
591 (r), and not more than a total of sixty (60) beds may be  
592 authorized in any Long-Term Care Planning District by all  
593 certificates of need issued under this paragraph (r). However,  
594 the total number of beds that may be authorized by all  
595 certificates of need issued under this paragraph (r) during any  
596 fiscal year shall not exceed one hundred twenty (120) beds, and  
597 the total number of beds that may be authorized in any Long-Term  
598 Care Planning District during any fiscal year shall not exceed  
599 forty (40) beds. Of the certificates of need that are issued for  
600 each Long-Term Care Planning District during the next two (2)  
601 fiscal years, at least one (1) shall be issued for beds in the  
602 northern part of the district, at least one (1) shall be issued  
603 for beds in the central part of the district, and at least one (1)  
604 shall be issued for beds in the southern part of the district.

605 (iii) The State Department of Health, in  
606 consultation with the Department of Mental Health and the Division  
607 of Medicaid, shall develop and prescribe the staffing levels,  
608 space requirements and other standards and requirements that must  
609 be met with regard to the nursing facility beds authorized under  
610 this paragraph (r) to provide care exclusively to patients with  
611 Alzheimer's disease.

612 (3) The State Department of Health may grant approval for  
613 and issue certificates of need to any person proposing the new  
614 construction of, addition to, conversion of beds of or expansion  
615 of any health care facility defined in subparagraph (x)  
616 (psychiatric residential treatment facility) of Section  
617 41-7-173(h). The total number of beds which may be authorized by  
618 such certificates of need shall not exceed three hundred  
619 thirty-four (334) beds for the entire state.

620 (a) Of the total number of beds authorized under this  
621 subsection, the department shall issue a certificate of need to a  
622 privately-owned psychiatric residential treatment facility in  
623 Simpson County for the conversion of sixteen (16) intermediate  
624 care facility for the mentally retarded (ICF-MR) beds to  
625 psychiatric residential treatment facility beds, provided that  
626 facility agrees in writing that the facility shall give priority  
627 for the use of those sixteen (16) beds to Mississippi residents  
628 who are presently being treated in out-of-state facilities.

629 (b) Of the total number of beds authorized under this  
630 subsection, the department may issue a certificate or certificates  
631 of need for the construction or expansion of psychiatric  
632 residential treatment facility beds or the conversion of other  
633 beds to psychiatric residential treatment facility beds in Warren  
634 County, not to exceed sixty (60) psychiatric residential treatment  
635 facility beds, provided that the facility agrees in writing that  
636 no more than thirty (30) of the beds at the psychiatric  
637 residential treatment facility will be certified for participation  
638 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
639 any patients other than those who are participating only in the  
640 Medicaid program of another state, and that no claim will be  
641 submitted to the Division of Medicaid for Medicaid reimbursement  
642 for more than thirty (30) patients in the psychiatric residential  
643 treatment facility in any day or for any patient in the  
644 psychiatric residential treatment facility who is in a bed that is  
645 not Medicaid-certified. This written agreement by the recipient  
646 of the certificate of need shall be a condition of the issuance of  
647 the certificate of need under this paragraph, and the agreement  
648 shall be fully binding on any subsequent owner of the psychiatric  
649 residential treatment facility if the ownership of the facility is  
650 transferred at any time after the issuance of the certificate of  
651 need. After this written agreement is executed, the Division of  
652 Medicaid and the State Department of Health shall not certify more

653 than thirty (30) of the beds in the psychiatric residential  
654 treatment facility for participation in the Medicaid program for  
655 the use of any patients other than those who are participating  
656 only in the Medicaid program of another state. If the psychiatric  
657 residential treatment facility violates the terms of the written  
658 agreement by admitting or keeping in the facility on a regular or  
659 continuing basis more than thirty (30) patients who are  
660 participating in the Mississippi Medicaid program, the State  
661 Department of Health shall revoke the license of the facility, at  
662 the time that the department determines, after a hearing complying  
663 with due process, that the facility has violated the condition  
664 upon which the certificate of need was issued, as provided in this  
665 paragraph and in the written agreement.

666 The State Department of Health, on or before July 1, 2002,  
667 shall transfer the certificate of need authorized under the  
668 authority of this paragraph (b), or reissue the certificate of  
669 need if it has expired, to River Region Health System.

670 (c) Of the total number of beds authorized under this  
671 subsection, the department shall issue a certificate of need to a  
672 hospital currently operating Medicaid-certified acute psychiatric  
673 beds for adolescents in DeSoto County, for the establishment of a  
674 forty-bed psychiatric residential treatment facility in DeSoto  
675 County, provided that the hospital agrees in writing (i) that the  
676 hospital shall give priority for the use of those forty (40) beds  
677 to Mississippi residents who are presently being treated in  
678 out-of-state facilities, and (ii) that no more than fifteen (15)  
679 of the beds at the psychiatric residential treatment facility will  
680 be certified for participation in the Medicaid program (Section  
681 43-13-101 et seq.), and that no claim will be submitted for  
682 Medicaid reimbursement for more than fifteen (15) patients in the  
683 psychiatric residential treatment facility in any day or for any  
684 patient in the psychiatric residential treatment facility who is  
685 in a bed that is not Medicaid-certified. This written agreement

686 by the recipient of the certificate of need shall be a condition  
687 of the issuance of the certificate of need under this paragraph,  
688 and the agreement shall be fully binding on any subsequent owner  
689 of the psychiatric residential treatment facility if the ownership  
690 of the facility is transferred at any time after the issuance of  
691 the certificate of need. After this written agreement is  
692 executed, the Division of Medicaid and the State Department of  
693 Health shall not certify more than fifteen (15) of the beds in the  
694 psychiatric residential treatment facility for participation in  
695 the Medicaid program. If the psychiatric residential treatment  
696 facility violates the terms of the written agreement by admitting  
697 or keeping in the facility on a regular or continuing basis more  
698 than fifteen (15) patients who are participating in the Medicaid  
699 program, the State Department of Health shall revoke the license  
700 of the facility, at the time that the department determines, after  
701 a hearing complying with due process, that the facility has  
702 violated the condition upon which the certificate of need was  
703 issued, as provided in this paragraph and in the written  
704 agreement.

705 (d) Of the total number of beds authorized under this  
706 subsection, the department may issue a certificate or certificates  
707 of need for the construction or expansion of psychiatric  
708 residential treatment facility beds or the conversion of other  
709 beds to psychiatric treatment facility beds, not to exceed thirty  
710 (30) psychiatric residential treatment facility beds, in either  
711 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
712 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

713 (e) Of the total number of beds authorized under this  
714 subsection (3) the department shall issue a certificate of need to  
715 a privately-owned, nonprofit psychiatric residential treatment  
716 facility in Hinds County for an eight-bed expansion of the  
717 facility, provided that the facility agrees in writing that the  
718 facility shall give priority for the use of those eight (8) beds

719 to Mississippi residents who are presently being treated in  
720 out-of-state facilities.

721 (f) The department shall issue a certificate of need to  
722 a one-hundred-thirty-four-bed specialty hospital located on  
723 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
724 at 5900 Highway 39 North in Meridian (Lauderdale County),  
725 Mississippi, for the addition, construction or expansion of  
726 child/adolescent psychiatric residential treatment facility beds  
727 in Lauderdale County. As a condition of issuance of the  
728 certificate of need under this paragraph, the facility shall give  
729 priority in admissions to the child/adolescent psychiatric  
730 residential treatment facility beds authorized under this  
731 paragraph to patients who otherwise would require out-of-state  
732 placement. The Division of Medicaid, in conjunction with the  
733 Department of Human Services, shall furnish the facility a list of  
734 all out-of-state patients on a quarterly basis. Furthermore,  
735 notice shall also be provided to the parent, custodial parent or  
736 guardian of each out-of-state patient notifying them of the  
737 priority status granted by this paragraph. For purposes of this  
738 paragraph, the provisions of Section 41-7-193(1) requiring  
739 substantial compliance with the projection of need as reported in  
740 the current State Health Plan are waived. The total number of  
741 child/adolescent psychiatric residential treatment facility beds  
742 that may be authorized under the authority of this paragraph shall  
743 be sixty (60) beds. There shall be no prohibition or restrictions  
744 on participation in the Medicaid program (Section 43-13-101 et  
745 seq.) for the person receiving the certificate of need authorized  
746 under this paragraph or for the beds converted pursuant to the  
747 authority of that certificate of need.

748 (4) (a) From and after July 1, 1993, the department shall  
749 not issue a certificate of need to any person for the new  
750 construction of any hospital, psychiatric hospital or chemical  
751 dependency hospital that will contain any child/adolescent

752 psychiatric or child/adolescent chemical dependency beds, or for  
753 the conversion of any other health care facility to a hospital,  
754 psychiatric hospital or chemical dependency hospital that will  
755 contain any child/adolescent psychiatric or child/adolescent  
756 chemical dependency beds, or for the addition of any  
757 child/adolescent psychiatric or child/adolescent chemical  
758 dependency beds in any hospital, psychiatric hospital or chemical  
759 dependency hospital, or for the conversion of any beds of another  
760 category in any hospital, psychiatric hospital or chemical  
761 dependency hospital to child/adolescent psychiatric or  
762 child/adolescent chemical dependency beds, except as hereinafter  
763 authorized:

764                   (i) The department may issue certificates of need  
765 to any person for any purpose described in this subsection,  
766 provided that the hospital, psychiatric hospital or chemical  
767 dependency hospital does not participate in the Medicaid program  
768 (Section 43-13-101 et seq.) at the time of the application for the  
769 certificate of need and the owner of the hospital, psychiatric  
770 hospital or chemical dependency hospital agrees in writing that  
771 the hospital, psychiatric hospital or chemical dependency hospital  
772 will not at any time participate in the Medicaid program or admit  
773 or keep any patients who are participating in the Medicaid program  
774 in the hospital, psychiatric hospital or chemical dependency  
775 hospital. This written agreement by the recipient of the  
776 certificate of need shall be fully binding on any subsequent owner  
777 of the hospital, psychiatric hospital or chemical dependency  
778 hospital, if the ownership of the facility is transferred at any  
779 time after the issuance of the certificate of need. Agreement  
780 that the hospital, psychiatric hospital or chemical dependency  
781 hospital will not participate in the Medicaid program shall be a  
782 condition of the issuance of a certificate of need to any person  
783 under this subparagraph (a)(i), and if such hospital, psychiatric  
784 hospital or chemical dependency hospital at any time after the



785 issuance of the certificate of need, regardless of the ownership  
786 of the facility, participates in the Medicaid program or admits or  
787 keeps any patients in the hospital, psychiatric hospital or  
788 chemical dependency hospital who are participating in the Medicaid  
789 program, the State Department of Health shall revoke the  
790 certificate of need, if it is still outstanding, and shall deny or  
791 revoke the license of the hospital, psychiatric hospital or  
792 chemical dependency hospital, at the time that the department  
793 determines, after a hearing complying with due process, that the  
794 hospital, psychiatric hospital or chemical dependency hospital has  
795 failed to comply with any of the conditions upon which the  
796 certificate of need was issued, as provided in this subparagraph  
797 and in the written agreement by the recipient of the certificate  
798 of need.

799           (ii) The department may issue a certificate of  
800 need for the conversion of existing beds in a county hospital in  
801 Choctaw County from acute care beds to child/adolescent chemical  
802 dependency beds. For purposes of this subparagraph, the  
803 provisions of Section 41-7-193(1) requiring substantial compliance  
804 with the projection of need as reported in the current State  
805 Health Plan is waived. The total number of beds that may be  
806 authorized under authority of this subparagraph shall not exceed  
807 twenty (20) beds. There shall be no prohibition or restrictions  
808 on participation in the Medicaid program (Section 43-13-101 et  
809 seq.) for the hospital receiving the certificate of need  
810 authorized under this subparagraph (a)(ii) or for the beds  
811 converted pursuant to the authority of that certificate of need.

812           (iii) The department may issue a certificate or  
813 certificates of need for the construction or expansion of  
814 child/adolescent psychiatric beds or the conversion of other beds  
815 to child/adolescent psychiatric beds in Warren County. For  
816 purposes of this subparagraph, the provisions of Section  
817 41-7-193(1) requiring substantial compliance with the projection

818 of need as reported in the current State Health Plan are waived.  
819 The total number of beds that may be authorized under the  
820 authority of this subparagraph shall not exceed twenty (20) beds.  
821 There shall be no prohibition or restrictions on participation in  
822 the Medicaid program (Section 43-13-101 et seq.) for the person  
823 receiving the certificate of need authorized under this  
824 subparagraph (a)(iii) or for the beds converted pursuant to the  
825 authority of that certificate of need.

826         If by January 1, 2002, there has been no significant  
827 commencement of construction of the beds authorized under this  
828 subparagraph (a)(iii), or no significant action taken to convert  
829 existing beds to the beds authorized under this subparagraph, then  
830 the certificate of need that was previously issued under this  
831 subparagraph shall expire. If the previously issued certificate  
832 of need expires, the department may accept applications for  
833 issuance of another certificate of need for the beds authorized  
834 under this subparagraph, and may issue a certificate of need to  
835 authorize the construction, expansion or conversion of the beds  
836 authorized under this subparagraph.

837                 (iv) The department shall issue a certificate of  
838 need to the Region 7 Mental Health/Retardation Commission for the  
839 construction or expansion of child/adolescent psychiatric beds or  
840 the conversion of other beds to child/adolescent psychiatric beds  
841 in any of the counties served by the commission. For purposes of  
842 this subparagraph, the provisions of Section 41-7-193(1) requiring  
843 substantial compliance with the projection of need as reported in  
844 the current State Health Plan is waived. The total number of beds  
845 that may be authorized under the authority of this subparagraph  
846 shall not exceed twenty (20) beds. There shall be no prohibition  
847 or restrictions on participation in the Medicaid program (Section  
848 43-13-101 et seq.) for the person receiving the certificate of  
849 need authorized under this subparagraph (a)(iv) or for the beds  
850 converted pursuant to the authority of that certificate of need.

851                   (v) The department may issue a certificate of need  
852 to any county hospital located in Leflore County for the  
853 construction or expansion of adult psychiatric beds or the  
854 conversion of other beds to adult psychiatric beds, not to exceed  
855 twenty (20) beds, provided that the recipient of the certificate  
856 of need agrees in writing that the adult psychiatric beds will not  
857 at any time be certified for participation in the Medicaid program  
858 and that the hospital will not admit or keep any patients who are  
859 participating in the Medicaid program in any of such adult  
860 psychiatric beds. This written agreement by the recipient of the  
861 certificate of need shall be fully binding on any subsequent owner  
862 of the hospital if the ownership of the hospital is transferred at  
863 any time after the issuance of the certificate of need. Agreement  
864 that the adult psychiatric beds will not be certified for  
865 participation in the Medicaid program shall be a condition of the  
866 issuance of a certificate of need to any person under this  
867 subparagraph (a)(v), and if such hospital at any time after the  
868 issuance of the certificate of need, regardless of the ownership  
869 of the hospital, has any of such adult psychiatric beds certified  
870 for participation in the Medicaid program or admits or keeps any  
871 Medicaid patients in such adult psychiatric beds, the State  
872 Department of Health shall revoke the certificate of need, if it  
873 is still outstanding, and shall deny or revoke the license of the  
874 hospital at the time that the department determines, after a  
875 hearing complying with due process, that the hospital has failed  
876 to comply with any of the conditions upon which the certificate of  
877 need was issued, as provided in this subparagraph and in the  
878 written agreement by the recipient of the certificate of need.

879                   (vi) The department may issue a certificate or  
880 certificates of need for the expansion of child psychiatric beds  
881 or the conversion of other beds to child psychiatric beds at the  
882 University of Mississippi Medical Center. For purposes of this  
883 subparagraph (a)(vi), the provision of Section 41-7-193(1)

884 requiring substantial compliance with the projection of need as  
885 reported in the current State Health Plan is waived. The total  
886 number of beds that may be authorized under the authority of this  
887 subparagraph (a)(vi) shall not exceed fifteen (15) beds. There  
888 shall be no prohibition or restrictions on participation in the  
889 Medicaid program (Section 43-13-101 et seq.) for the hospital  
890 receiving the certificate of need authorized under this  
891 subparagraph (a)(vi) or for the beds converted pursuant to the  
892 authority of that certificate of need.

893 (b) From and after July 1, 1990, no hospital,  
894 psychiatric hospital or chemical dependency hospital shall be  
895 authorized to add any child/adolescent psychiatric or  
896 child/adolescent chemical dependency beds or convert any beds of  
897 another category to child/adolescent psychiatric or  
898 child/adolescent chemical dependency beds without a certificate of  
899 need under the authority of subsection (1)(c) of this section.

900 (5) The department may issue a certificate of need to a  
901 county hospital in Winston County for the conversion of fifteen  
902 (15) acute care beds to geriatric psychiatric care beds.

903 (6) The State Department of Health shall issue a certificate  
904 of need to a Mississippi corporation qualified to manage a  
905 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
906 Harrison County, not to exceed eighty (80) beds, including any  
907 necessary renovation or construction required for licensure and  
908 certification, provided that the recipient of the certificate of  
909 need agrees in writing that the long-term care hospital will not  
910 at any time participate in the Medicaid program (Section 43-13-101  
911 et seq.) or admit or keep any patients in the long-term care  
912 hospital who are participating in the Medicaid program. This  
913 written agreement by the recipient of the certificate of need  
914 shall be fully binding on any subsequent owner of the long-term  
915 care hospital, if the ownership of the facility is transferred at  
916 any time after the issuance of the certificate of need. Agreement

917 that the long-term care hospital will not participate in the  
918 Medicaid program shall be a condition of the issuance of a  
919 certificate of need to any person under this subsection (6), and  
920 if such long-term care hospital at any time after the issuance of  
921 the certificate of need, regardless of the ownership of the  
922 facility, participates in the Medicaid program or admits or keeps  
923 any patients in the facility who are participating in the Medicaid  
924 program, the State Department of Health shall revoke the  
925 certificate of need, if it is still outstanding, and shall deny or  
926 revoke the license of the long-term care hospital, at the time  
927 that the department determines, after a hearing complying with due  
928 process, that the facility has failed to comply with any of the  
929 conditions upon which the certificate of need was issued, as  
930 provided in this subsection and in the written agreement by the  
931 recipient of the certificate of need. For purposes of this  
932 subsection, the provision of Section 41-7-193(1) requiring  
933 substantial compliance with the projection of need as reported in  
934 the current State Health Plan is hereby waived.

935 (7) The State Department of Health may issue a certificate  
936 of need to any hospital in the state to utilize a portion of its  
937 beds for the "swing-bed" concept. Any such hospital must be in  
938 conformance with the federal regulations regarding such swing-bed  
939 concept at the time it submits its application for a certificate  
940 of need to the State Department of Health, except that such  
941 hospital may have more licensed beds or a higher average daily  
942 census (ADC) than the maximum number specified in federal  
943 regulations for participation in the swing-bed program. Any  
944 hospital meeting all federal requirements for participation in the  
945 swing-bed program which receives such certificate of need shall  
946 render services provided under the swing-bed concept to any  
947 patient eligible for Medicare (Title XVIII of the Social Security  
948 Act) who is certified by a physician to be in need of such  
949 services, and no such hospital shall permit any patient who is

950 eligible for both Medicaid and Medicare or eligible only for  
951 Medicaid to stay in the swing beds of the hospital for more than  
952 thirty (30) days per admission unless the hospital receives prior  
953 approval for such patient from the Division of Medicaid, Office of  
954 the Governor. Any hospital having more licensed beds or a higher  
955 average daily census (ADC) than the maximum number specified in  
956 federal regulations for participation in the swing-bed program  
957 which receives such certificate of need shall develop a procedure  
958 to insure that before a patient is allowed to stay in the swing  
959 beds of the hospital, there are no vacant nursing home beds  
960 available for that patient located within a fifty-mile radius of  
961 the hospital. When any such hospital has a patient staying in the  
962 swing beds of the hospital and the hospital receives notice from a  
963 nursing home located within such radius that there is a vacant bed  
964 available for that patient, the hospital shall transfer the  
965 patient to the nursing home within a reasonable time after receipt  
966 of the notice. Any hospital which is subject to the requirements  
967 of the two (2) preceding sentences of this subsection may be  
968 suspended from participation in the swing-bed program for a  
969 reasonable period of time by the State Department of Health if the  
970 department, after a hearing complying with due process, determines  
971 that the hospital has failed to comply with any of those  
972 requirements.

973 (8) The Department of Health shall not grant approval for or  
974 issue a certificate of need to any person proposing the new  
975 construction of, addition to or expansion of a health care  
976 facility as defined in subparagraph (viii) of Section 41-7-173(h).

977 (9) The Department of Health shall not grant approval for or  
978 issue a certificate of need to any person proposing the  
979 establishment of, or expansion of the currently approved territory  
980 of, or the contracting to establish a home office, subunit or  
981 branch office within the space operated as a health care facility  
982 as defined in Section 41-7-173(h)(i) through (viii) by a health

983 care facility as defined in subparagraph (ix) of Section  
984 41-7-173(h).

985 (10) Health care facilities owned and/or operated by the  
986 state or its agencies are exempt from the restraints in this  
987 section against issuance of a certificate of need if such addition  
988 or expansion consists of repairing or renovation necessary to  
989 comply with the state licensure law. This exception shall not  
990 apply to the new construction of any building by such state  
991 facility. This exception shall not apply to any health care  
992 facilities owned and/or operated by counties, municipalities,  
993 districts, unincorporated areas, other defined persons, or any  
994 combination thereof.

995 (11) The new construction, renovation or expansion of or  
996 addition to any health care facility defined in subparagraph (ii)  
997 (psychiatric hospital), subparagraph (iv) (skilled nursing  
998 facility), subparagraph (vi) (intermediate care facility),  
999 subparagraph (viii) (intermediate care facility for the mentally  
1000 retarded) and subparagraph (x) (psychiatric residential treatment  
1001 facility) of Section 41-7-173(h) which is owned by the State of  
1002 Mississippi and under the direction and control of the State  
1003 Department of Mental Health, and the addition of new beds or the  
1004 conversion of beds from one category to another in any such  
1005 defined health care facility which is owned by the State of  
1006 Mississippi and under the direction and control of the State  
1007 Department of Mental Health, shall not require the issuance of a  
1008 certificate of need under Section 41-7-171 et seq.,  
1009 notwithstanding any provision in Section 41-7-171 et seq. to the  
1010 contrary.

1011 (12) The new construction, renovation or expansion of or  
1012 addition to any veterans homes or domiciliaries for eligible  
1013 veterans of the State of Mississippi as authorized under Section  
1014 35-1-19 shall not require the issuance of a certificate of need,

1015 notwithstanding any provision in Section 41-7-171 et seq. to the  
1016 contrary.

1017         (13) The new construction of a nursing facility or nursing  
1018 facility beds or the conversion of other beds to nursing facility  
1019 beds shall not require the issuance of a certificate of need,  
1020 notwithstanding any provision in Section 41-7-171 et seq. to the  
1021 contrary, if the conditions of this subsection are met.

1022         (a) Before any construction or conversion may be  
1023 undertaken without a certificate of need, the owner of the nursing  
1024 facility, in the case of an existing facility, or the applicant to  
1025 construct a nursing facility, in the case of new construction,  
1026 first must file a written notice of intent and sign a written  
1027 agreement with the State Department of Health that the entire  
1028 nursing facility will not at any time participate in or have any  
1029 beds certified for participation in the Medicaid program (Section  
1030 43-13-101 et seq.), will not admit or keep any patients in the  
1031 nursing facility who are participating in the Medicaid program,  
1032 and will not submit any claim for Medicaid reimbursement for any  
1033 patient in the facility. This written agreement by the owner or  
1034 applicant shall be a condition of exercising the authority under  
1035 this subsection without a certificate of need, and the agreement  
1036 shall be fully binding on any subsequent owner of the nursing  
1037 facility if the ownership of the facility is transferred at any  
1038 time after the agreement is signed. After the written agreement  
1039 is signed, the Division of Medicaid and the State Department of  
1040 Health shall not certify any beds in the nursing facility for  
1041 participation in the Medicaid program. If the nursing facility  
1042 violates the terms of the written agreement by participating in  
1043 the Medicaid program, having any beds certified for participation  
1044 in the Medicaid program, admitting or keeping any patient in the  
1045 facility who is participating in the Medicaid program, or  
1046 submitting any claim for Medicaid reimbursement for any patient in  
1047 the facility, the State Department of Health shall revoke the



1048 license of the nursing facility at the time that the department  
1049 determines, after a hearing complying with due process, that the  
1050 facility has violated the terms of the written agreement.

1051 (b) For the purposes of this subsection, participation  
1052 in the Medicaid program by a nursing facility includes Medicaid  
1053 reimbursement of coinsurance and deductibles for recipients who  
1054 are qualified Medicare beneficiaries and/or those who are dually  
1055 eligible. Any nursing facility exercising the authority under  
1056 this subsection may not bill or submit a claim to the Division of  
1057 Medicaid for services to qualified Medicare beneficiaries and/or  
1058 those who are dually eligible.

1059 (c) The new construction of a nursing facility or  
1060 nursing facility beds or the conversion of other beds to nursing  
1061 facility beds described in this section must be either a part of a  
1062 completely new continuing care retirement community, as described  
1063 in the latest edition of the Mississippi State Health Plan, or an  
1064 addition to existing personal care and independent living  
1065 components, and so that the completed project will be a continuing  
1066 care retirement community, containing (i) independent living  
1067 accommodations, (ii) personal care beds, and (iii) the nursing  
1068 home facility beds. The three (3) components must be located on a  
1069 single site and be operated as one (1) inseparable facility. The  
1070 nursing facility component must contain a minimum of thirty (30)  
1071 beds. Any nursing facility beds authorized by this section will  
1072 not be counted against the bed need set forth in the State Health  
1073 Plan, as identified in Section 41-7-171 et seq.

1074 This subsection (13) shall stand repealed from and after July  
1075 1, 2005.

1076 (14) The State Department of Health shall issue a  
1077 certificate of need to any hospital which is currently licensed  
1078 for two hundred fifty (250) or more acute care beds and is located  
1079 in any general hospital service area not having a comprehensive  
1080 cancer center, for the establishment and equipping of such a

1081 center which provides facilities and services for outpatient  
1082 radiation oncology therapy, outpatient medical oncology therapy,  
1083 and appropriate support services including the provision of  
1084 radiation therapy services. The provision of Section 41-7-193(1)  
1085 regarding substantial compliance with the projection of need as  
1086 reported in the current State Health Plan is waived for the  
1087 purpose of this subsection.

1088 (15) The State Department of Health may authorize the  
1089 transfer of hospital beds, not to exceed sixty (60) beds, from the  
1090 North Panola Community Hospital to the South Panola Community  
1091 Hospital. The authorization for the transfer of those beds shall  
1092 be exempt from the certificate of need review process.

1093 (16) Nothing in this section or in any other provision of  
1094 Section 41-7-171 et seq. shall prevent any nursing facility from  
1095 designating an appropriate number of existing beds in the facility  
1096 as beds for providing care exclusively to patients with  
1097 Alzheimer's disease.

1098 **SECTION 2.** This act shall take effect and be in force from  
1099 and after July 1, 2004.